

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
FEDERAL REGISTER
OF THE UNITED STATES
1934

VOLUME 4 NUMBER 162

Washington, Wednesday, August 23, 1939

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

COMMODITY CREDIT CORPORATION

PART 204—DETERMINATION OF PREVAILING WORLD MARKET PRICE FOR AMERICAN COTTON

§ 204.1 By virtue of the authority vested in the Secretary of Agriculture by H. J. Res. 375, approved August 11, 1939 (Public Resolution No. 52, 76th Congress), I, Harry L. Brown, Acting Secretary of Agriculture, do hereby determine that for the purposes of said Joint Resolution the prevailing world market price for the unrestricted use of American cotton in bales compressed to high density, delivered at shipside, shall be the simple average of the market prices for Middling $\frac{3}{8}$ inch cotton in the three designated spot cotton markets at the Gulf ports of New Orleans, Louisiana, and Galveston and Houston, Texas, as reported by the Agricultural Marketing Service of the United States Department of Agriculture for the 15 business days immediately preceding the date of any sale under said Joint Resolution, with additions or deductions for other grades and staple lengths, which such additions or deductions shall be the simple averages of the commercial differences on or off Middling $\frac{3}{8}$ for such other grades and staple lengths as reported by the Agricultural Marketing Service for the said three designated spot cotton markets for the said 15 business days, plus .18 cent per pound for delivery to shipside in high density form, and less the prevailing rate of export subsidy payment in effect on the date of sale. The additions and deductions for cotton of staple lengths not quoted in said three designated spot cot-

ton markets shall be the simple averages of the commercial differences for such lengths as quoted in other designated spot cotton markets for said 15 business days, and in the absence of any quotations for any such qualities in any designated market, the simple averages of the commercial differences ascertained from the best available sources and reported by the Agricultural Marketing Service for the said 15 business days.

Done at Washington, D. C., this 21st day of August 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-3092; Filed, August 22, 1939; 9:38 a. m.]

PART 204—DETERMINATION OF CARRYING CHARGES FOR AMERICAN COTTON

§ 204.2 By virtue of the authority vested in the Secretary of Agriculture by H. J. Res. 375, approved August 11, 1939 (Public Resolution No. 52, 76th Congress), I, Harry L. Brown, Acting Secretary of Agriculture, do hereby determine that for the purpose of any sale of cotton made under the provisions of said law prior to January 1, 1940, the estimated average carrying charges that that would be incurred if such cotton should be held by Commodity Credit Corporation for an additional eighteen months are .62 cent per pound.

Done at Washington, D. C., this 21st day of August 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-3093; Filed, August 22, 1939; 9:38 a. m.]

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT:

Commodity Credit Corporation:

| | |
|------------------------------------|------|
| American cotton, determination of: | Page |
| Carrying charges..... | 3693 |
| Prevailing world market price..... | 3693 |

TITLE 7—AGRICULTURE:

Division of Marketing and Marketing Agreements:

| | |
|------------------------------------------------------------------------------------------------|------|
| Beurre D'Anjou, etc., pears grown in Oregon, Washington and California, regulatory order | 3694 |
|------------------------------------------------------------------------------------------------|------|

TITLE 16—COMMERCIAL PRACTICES:

Federal Trade Commission:

| | |
|-------------------------------|------|
| Cease and desist orders: | |
| Dearborn Supply Co..... | 3701 |
| Fairfield Engineering Co.... | 3704 |
| K and S Sales Co., et al.... | 3100 |
| McDowell, Pyle & Co., Inc.... | 3703 |
| Mode Novelty Co., et al..... | 3699 |
| Ohio Novelty Co..... | 3703 |
| Zo-Ro-Lo, Inc..... | 3699 |

TITLE 29—LABOR:

Children's Bureau:

| | |
|--------------------------------------------------------|------|
| Child labor, acceptance of State certificate (Iowa) .. | 3704 |
|--------------------------------------------------------|------|

Wage and Hour Division:

| | |
|-----------------------------------------------------------|------|
| Handicapped persons, employment regulations amended | 3704 |
|-----------------------------------------------------------|------|

TITLE 45—PUBLIC WELFARE:

Federal Works Agency—Work Projects Administration:

| | |
|----------------------------------|------|
| Monthly earnings, schedule of .. | 3705 |
|----------------------------------|------|

(Continued on next page)



Published by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1 per month or \$10 per year; single copies 10 cents each; payable in advance. Remit by money order payable to Superintendent of Documents, Government Printing Office, Washington, D. C.

Correspondence concerning the publication of the FEDERAL REGISTER should be addressed to the Director, Division of the Federal Register, The National Archives, Washington, D. C.

CONTENTS—Continued

TITLE 46—SHIPPING:

| | |
|-----------------------------------------------------------------------------------------------|-----------|
| United States Maritime Commission: | Page |
| Mississippi Shipping Co., Inc., minimum manning scales for certain subsidized vessels of..... | 3705-3706 |

TITLE 47—TELECOMMUNICATIONS:

| | |
|--------------------------------------------------|------|
| Federal Communications Commission: | |
| Rules of practice and procedure, correction..... | 3707 |

NOTICES

Department of Agriculture:

| | |
|------------------------------------------------------------------------------------------------------------------|------|
| Division of Marketing and Marketing Agreements: | |
| Beurre D'Anjou, etc., pears grown in Oregon, Washington and California, base period for agreement and order..... | 3707 |

Federal Communications Commission:

| | |
|------------------------------------------------|------|
| Notice of hearings: | |
| Alamo Broadcasting Co., Inc. (KABC)..... | 3707 |
| Murray, Roy James (new).... | 3708 |
| Portland Broadcasting System, Inc. (WGAN)..... | 3708 |
| Stuart Broadcasting Corp. (WROL)..... | 3707 |

Securities and Exchange Commission:

| | |
|----------------------------------------|------|
| Marion-Reserve Power Co., hearing..... | 3708 |
|----------------------------------------|------|

TITLE 7—AGRICULTURE

DIVISION OF MARKETING AND MARKETING AGREEMENTS

[Order No. 39]

PART 939—ORDER REGULATING HANDLING OF BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN THE STATES OF OREGON, WASHINGTON, AND CALIFORNIA *

Sec.

- 939.1 Definitions.
- 939.2 Control Committee.
 - (a) Establishment.
 - (b) Nomination and selection of successors to initial members and their respective alternates.
 - (c) Meetings for election of nominees.
 - (d) Voting.
 - (e) Eligibility for membership.
 - (f) Failure to nominate.
 - (g) Qualifications.
 - (h) Term of office.
 - (i) Alternates for members of the Control Committee.
 - (j) Vacancies.
 - (k) Compensation and expenses.
 - (l) Powers of Control Committee.
 - (m) Duties of Control Committee.
 - (n) Procedure of Control Committee.
 - (1) Quorum and voting.
 - (2) Mail voting.
 - (3) Rights of the Secretary.
 - (o) Funds and other property.
 - (1) Use of funds.
 - (2) Transfer of funds and property.
- 939.3 Expenses and assessments.
 - (a) Expenses.
 - (b) Assessments.
 - (c) Handler accounts.
 - (d) Use of funds.
 - (e) Collection of unpaid assessments.
- 939.4 Limitation of shipments.
 - (a) Minimum grade.
 - (b) Minimum sizes.
 - (c) Recommendation for modification of minimum grade or size.
 - (d) Modification of minimum grade or size.
 - (e) Exemption certificates.
 - (f) Inspection and certification.
- 939.5 Compliance.
- 939.6 Pears for byproduct and charitable purposes.
- 939.7 Reports.
- 939.8 Agents.
- 939.9 Effective time and termination.
 - (a) Effective time.
 - (b) Termination.
 - (c) Proceedings after termination.
- 939.10 Duration of immunities.
- 939.11 Separability.
- 939.12 Derogation.*
- 939.13 Liability of Control Committee members.
- 939.14 Amendments.
- 939.15 Effect of termination or amendment.

Whereas, under the provisions of Public Act No. 10, 73d Congress (May 12, 1935), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (hereinafter referred to as the act), it is provided that the Secretary of Agriculture of the United States (hereinafter referred to as the Secretary) shall, subject to the

*Sections 939.1 through 939.15 issued under the authority contained in 48 Stat. 31 (1933), 7 U. S. C. § 601 et seq. (1934); 49 Stat. 750 (1935); 50 Stat. 246 (1937), 7 U. S. C. § 601 et seq. (Supp. IV, 1938).

provisions of the act, issue orders regulating such handling of certain agricultural commodities as is in the current of interstate or foreign commerce, or such handling as directly burdens, obstructs, or affects interstate or foreign commerce, in such commodities; and

Whereas the Secretary, having reason to believe that the issuance of an order would tend to effectuate the declared policy of the act with respect to the establishment and maintenance of such orderly marketing conditions for the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California as would establish prices to the producers of such varieties of pears at a level that would give such varieties of pears a purchasing power with respect to articles that the producers thereof buy equivalent to the purchasing power of such varieties of pears during the base period August 1920-July 1929, conducted public hearings at Sacramento, California, on May 26, 1939; at Medford, Oregon, on May 29, 1939; at Hood River, Oregon, on May 31, 1939; and at Yakima, Washington, on June 1, 1939, pursuant to due notice¹ given to all interested parties on May 9, 1939, on a proposed order regulating such handling of such varieties of pears as is in the current of interstate or foreign commerce, or such handling as directly burdens, obstructs, or affects such commerce in such varieties of pears, at which hearings all interested persons in attendance were afforded due opportunity to be heard concerning the proposed order; and

Whereas the Secretary has found and proclaimed² that the purchasing power of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California during the period August 1909-July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of such varieties of pears can be satisfactorily determined from available statistics of the Department of Agriculture for the period August 1920-July 1929, and that the period August 1920-July 1929 is the base period to be used in connection with this order in determining the purchasing power of such varieties of pears; and

Whereas the Secretary finds, upon the basis of the evidence introduced at the hearing and the record thereof:

(1) That at the time of the hearing the prices received by the producers of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties

¹ 4 F.R. 1987 DI.

² See page 3707.

of pears were at a level that gave such varieties of pears a purchasing power with respect to articles that the producers thereof buy appreciably below the purchasing power of such varieties of pears during the base period;

(2) That the regulation of shipments of such varieties of pears by grades or sizes, as prescribed herein, will serve to prevent marked fluctuations in prices to the producers thereof, and will establish and maintain a more stabilized market for such varieties of pears, tending to establish prices to the producers thereof at a level that will give such varieties of pears a purchasing power with respect to articles that the producers thereof buy equivalent to the purchasing power of such varieties of pears during the base period;

(3) That this order is limited in its application to the smallest regional production area and to the smallest regional marketing area that is practicable, consistent with carrying out the declared policy of the act, and that the issuance of several orders applicable to any subdivision of such regional production or marketing areas would not effectively carry out the declared policy of the act;

(4) That the pro rata contribution of handlers to the expenses of the administrative agency herein established, based upon the quantity of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears shipped, as provided in this order, is fair and equitable; and

(5) That this order and all the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California by establishing and maintaining such orderly marketing conditions therefor as will establish prices to the producers thereof at a level that will give such varieties of pears a purchasing power with respect to articles that the producers thereof buy equivalent to the purchasing power of such varieties of pears in the base period, and by protecting the interest of the consumer by (a) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to the producers of such varieties of pears above the level which it is declared in the act to be the policy of Congress to establish; and

Whereas the Secretary finds:

(1) That a marketing agreement regulating the handling of the Beurre

D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California, executed on the 22d day of August 1939, upon which hearings were held on May 26, May 29, May 31, and June 1, 1939, was signed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the varieties of pears covered by this order) who, during the 1938 season, handled not less than fifty (50) percent of the volume of the varieties of pears covered by this order which were marketed during the same season in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect such commerce;

(2) That this order regulates the handling of much varieties of pears in the same manner as the aforesaid marketing agreement, and that it is made applicable only to persons in the respective classes of industrial and commercial activity specified in the said marketing agreement; and

(3) That the issuance of this order is favored by more than two-thirds ($\frac{2}{3}$) of the producers who, during the 1938 season (which is hereby determined to be a representative period), produced the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears for market within the States of Oregon, Washington, and California:

Now, therefore, it is ordered by the Secretary, acting under the authority vested in him by the act, that such handling of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California as is in the current of commerce, or as directly burdens, obstructs, or affects commerce, from the State of Oregon, the State of Washington, or the State of California to any point outside thereof, shall be in conformity to and in compliance with the terms and conditions of this order from and after the date herein specified.

§ 939.1. *Definitions.* As used herein the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States.

(b) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), as amended.

(c) "Person" means an individual, partnership, corporation, association, legal representative, or any organized group of individuals.

(d) "Pears" means and includes any and all of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau

varieties of pears grown in the States of Oregon, Washington, and California.

(e) "Size" means the number of pears which can be packed in a standard western pear box 18" long, 11½" wide and 8½" deep (inside measurements) when packed in accordance with the packing requirements of the U. S. Standards for Pears, effective July 1, 1939, or as such standards hereafter may be modified, or as "size" may be more specifically defined in a regulation issued hereunder.

(f) "Grower" means any person engaged in the production of pears, either as owner or as tenant.

(g) "Handler" means any person (except a common carrier of pears owned by another person) who, as owner, agent, broker, or otherwise, ships or handles pears, or causes pears to be shipped or handled, in fresh form by rail, truck, boat, or any other means whatsoever.

(h) "To ship" or "to handle" means to sell, deliver, handle for shipment, transport, or offer for transportation pears in the current of commerce, or so as directly to burden, obstruct, or affect commerce, from the State of Oregon, the State of Washington, or the State of California to any point outside thereof.

(i) "Fiscal period" means the period beginning July 1 of any year and ending June 30 of the following year, except that the first fiscal period shall begin on the effective date of the provisions hereof and end on the June 30 next following.

(j) "Area" means and includes the States of Oregon, Washington, and California.

(k) "District" means the applicable one of the following-described subdivisions of the area covered by the provisions hereof:

(1) Medford District shall include the counties of Jackson, Josephine, Curry, Coos, Douglas, Lane, and Klamath in the State of Oregon.

(2) Hood River-White Salmon-Underwood District shall include all of the State of Oregon not included in the Medford District, and the counties of Skamania and Klickitat in the State of Washington.

(3) Wenatchee District shall include the counties of Chelan, Okanogan, Douglas, and Spokane in the State of Washington.

(4) Yakima District shall include all of the State of Washington not included in the Wenatchee District or in the Hood River-White Salmon-Underwood District.

(5) Placerville District shall include all counties north of the northern boundaries of San Francisco, Contra Costa, San Joaquin, Calaveras, and Alpine Counties in the State of California.

(6) Santa Clara District shall include all of the State of California not included in the Placerville District.*

§ 939.2. *Control Committee*—(a) *Establishment*. A Control Committee, consisting of twelve (12) individual persons as its members, is hereby established to administer the terms and provisions hereof as specifically provided herein. There shall be an alternate for each member of the Control Committee. Six (6) members of the Control Committee and their respective alternates shall be growers of pears, and six (6) members and their respective alternates shall be handlers of pears. The initial members and alternates shall be as follows:

(1) S. M. Tuttle, of Medford, Oregon, as member, and R. R. Reter, of Medford, Oregon, as his alternate, to represent the handlers in the Medford District.

(2) D. R. Wood, of Medford, Oregon, as member, and Chester A. Fitch, of Medford, Oregon, as his alternate, to represent the growers in the Medford District.

(3) A. W. Peters, of Hood River, Oregon, as member, and John C. Duckwall, of Hood River, Oregon, as his alternate, to represent the handlers in the Hood River-White Salmon-Underwood District.

(4) Roy S. Haseltine, of Hood River, Oregon, as member, and Louis Thun, of Underwood, Washington, as his alternate, to represent the growers in the Hood River-White Salmon-Underwood District.

(5) Harry Jensen, of Wenatchee, Washington, as member, and Guy R. Coe, of Wenatchee, Washington, as his alternate, to represent the handlers in the Wenatchee District.

(6) Henry M. Smith, of Dryden, Washington, as member, and E. Barclay Brauns, of Wenatchee, Washington, as his alternate, to represent the growers in the Wenatchee District.

(7) O. K. Conant, of Yakima, Washington, as member, and B. A. Perham, of Yakima, Washington, as his alternate, to represent the handlers in the Yakima District.

(8) E. A. Bannister, of Yakima, Washington, as member, and Jerome T. Heermans, of Wapato, Washington, as his alternate, to represent the growers in the Yakima District.

(9) A. A. Brock, of Placerville, California, as member, and Theodore Hodapp, of Placerville, California, as his alternate, to represent the handlers in the Placerville District.

(10) L. W. Veerkamp, of Placerville, California, as member, and Alfred R. Thiele, of Placerville, California, as his alternate, to represent the growers in the Placerville District.

(11) Edgar A. Jackson, of Santa Clara, California, as member, and Wendell C. Day, of Santa Clara, California, as his alternate, to represent the handlers in the Santa Clara District.

(12) Howard S. Anderson, of San Jose, California, as member, and V. T. McCurdy, of San Jose, California, as his alternate, to represent the growers in the Santa Clara District.

(b) *Nomination and selection of successors to initial members and their respective alternates*. The successors to the initial grower members and their respective alternates for each district shall be selected by the Secretary from nominees elected by the growers in such district, and successors to the handler members and their respective alternates for each district shall be selected by the Secretary from nominees elected by the handlers in such district.

(c) *Meetings for election of nominees*. Nominations for successors to the initial members of the Control Committee and their alternates shall be made at meetings of growers and handlers held in each of the districts designated in section 939.1 at such times and places as the Control Committee shall designate. At each of such meetings the growers or handlers eligible to participate therein shall select a chairman and a secretary of that meeting. In the election of nominees, each grower and each handler shall be entitled to vote in accordance with the provisions of paragraph (d) of this section. The chairman of the meeting shall announce at the meeting the name of each person for whom votes have been cast, whether as a member or as an alternate for a member, and the number of votes cast for each such person; and the chairman or the secretary of such meeting shall forthwith transmit such information to the Secretary or his designated representative.

(d) *Voting*. Only growers in attendance at meetings for election of nominees shall participate in the nomination of grower members and their alternates, and only handlers in attendance at meetings for election of nominees shall participate in the nomination of handler members and their alternates. A grower may participate only in the election held in the district in which he produces pears, and a handler may participate only in the election held in the district or districts in which he handles pears. No person may vote both as a handler and as a grower. Each grower and each handler shall be entitled to cast one vote, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives, for each nominee to be elected.

(e) *Eligibility for membership*. Each grower member and his alternate shall be a grower who grows pears in the district in which and for which he is nominated and selected. Each handler member and his alternate shall be a handler, or an officer or employee of a handler, handling pears in the district in and for which he is nominated and selected.

(f) *Failure to nominate*. In the event nominations are not made pursuant to paragraphs (b) and (c) of this section on or before June 1 of any year, the Secretary may select members and alternates for members without regard to nominations.

(g) *Qualifications*. Any person selected by the Secretary as a member

or as an alternate for a member of the Control Committee shall qualify by filing a written acceptance with the Secretary within fifteen (15) days after being notified of such selection.

(h) *Term of office*. The initial members and their respective alternates shall hold office for a term beginning at the time the provisions hereof become effective and ending June 30, 1940, or until their successors are selected and have qualified. Each member and each alternate for a member selected subsequent to the initial term shall serve during the fiscal period for which he has been selected or until his successor is selected and has qualified.

(i) *Alternates for members of the control committee*. An alternate for a member shall act in the place and stead of the member for whom he is an alternate during such member's absence. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified.

(j) *Vacancies*. To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate for a member of the Control Committee to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or qualified alternate for a member, a successor for his unexpired term shall be nominated and selected in the manner set forth in this section. If nominations to fill any such vacancy are not made within twenty (20) days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations.

(k) *Compensation and expenses*. The members and alternates for members of the Control Committee shall serve without compensation, but may be reimbursed for expenses necessarily incurred by them in the performance of their respective duties.

(l) *Powers of control committee*. The Control Committee shall have the following powers:

(1) To administer, as herein specifically provided, the terms and provisions hereof;

(2) To make administrative rules and regulations in accordance with, and to effectuate, the terms and provisions hereof; and

(3) To receive, investigate, and report to the Secretary complaints of violations of the provisions hereof.

(m) *Duties of control committee*. The duties of the Control Committee shall be as follows:

(1) To act as intermediary between the Secretary and any grower or handler;

(2) To keep minutes, books, and records which will reflect clearly all of the acts and transactions of the Control Committee, which minutes, books, and records shall be subject at any time to

examination by the Secretary or by such person as may be designated by the Secretary;

(3) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions relative to pears grown in the area covered hereby, and to furnish to the Secretary such available information as may be requested;

(4) To perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of Section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public Act No. 320, 74th Congress, approved August 24, 1935, as amended;

(5) To cause the books of the Control Committee to be audited by one or more competent accountants at the end of each fiscal year and at such other times as the Control Committee may deem necessary or as the Secretary may request, and to file with the Secretary copies of any and all audit reports made;

(6) To appoint such employees as it may deem necessary, and to determine the salaries and define the duties of such employees;

(7) To give the Secretary, or the designated agent of the Secretary, the same notice of meetings of the Control Committee as is given to the members of the Control Committee;

(8) To select a chairman of the Control Committee and, from time to time, such other officers as it may deem advisable; and

(9) To submit to the Secretary each fiscal period a budget of its expenses during that fiscal year.

(n) *Procedure of control committee*—(1) *Quorum and voting.* A quorum shall consist of nine (9) members, or alternates then serving in the place and stead of any members, in attendance at the meeting. Except as otherwise provided in section 939.4, paragraph (c), all decisions of the Control Committee shall be made by not fewer than seven (7) affirmative votes.

(2) *Mail voting.* The Control Committee may provide for members voting by mail, telephone, or telegraph, upon due notice to all members. Promptly after voting by telephone or telegraph, each member thus voting shall confirm, in writing, the vote so cast.

(3) *Rights of the secretary.* The members and alternates for members of the Control Committee, including their successors, and any agent or employee appointed or employed by the Control Committee shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the Control Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and,

upon such disapproval, shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

(o) *Funds and other property*—(1) *Use of funds.* All funds received by the Control Committee pursuant to any of the provisions hereof shall be used solely for the purposes herein specified, and the Secretary may require the Control Committee and its members to account for all receipts and disbursements.

(2) *Transfer of funds and property.* Upon the death, resignation, removal, disqualification, or expiration of the term of office of any member or employee of the Control Committee, all books, records, funds, and other property in his possession belonging to the Control Committee shall be delivered to his successor in office or to the Control Committee, and such assignments and other instruments shall be executed as may be necessary to vest in such successor or in the Control Committee full title to all the books, records, funds, and other property in the possession or under the control of such member or employee pursuant hereto.*

§ 939.3. *Expenses and assessments*—(a) *Expenses.* The Control Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out its functions hereunder. The funds to cover such expenses shall be acquired by the levying of assessments as provided in this section.

(b) *Assessments.* Assessments will be levied only upon the handler who first handles pears which subsequently are shipped from the State of Oregon, the State of Washington, or the State of California. Such handler shall pay to the Control Committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds necessarily will be incurred by the Control Committee for the maintenance and functioning of the Control Committee during each fiscal period. Such handler's pro rata share of such expenses shall be that proportion thereof which the total quantity of pears first handled by that handler during such fiscal period is of the total quantity of pears first handled by all handlers during the fiscal period. The Secretary shall fix the rate of assessment to be paid by such handler, which rate may be adjusted from time to time by the Control Committee, with the approval of the Secretary, in order to cover any later findings by the Secretary of estimated expenses or the actual expenses of the Control Committee during said fiscal period.

(c) *Handler accounts.* At the end of each fiscal period the Control Committee shall credit each handler assessed with any amount paid by such handler in excess of his pro rata share of the expenses, or shall debit such handler with the deficiency between his pro rata share

and the amount paid by him. Any such debits shall become due and payable upon demand by the Control Committee.

(d) *Use of funds.* From the funds acquired pursuant to this section the Control Committee shall pay the salaries of its employees, if any, and pay the expenses necessarily incurred in the performance of the duties of the Control Committee.

(e) *Collection of unpaid assessments.* The Control Committee, with the approval of the Secretary, may institute and maintain, in its own name or in the names of its members, legal proceedings against any handler assessed for the collection of such handler's pro rata share of the aforesaid expenses.*

§ 939.4. *Limitation of shipments*—(a) *Minimum grade.* The minimum grade of pears which may be shipped by any handler shall be U. S. Combination Grade, as such grade is specified in the U. S. Standards for Pears, effective July 1, 1939, or as such standards may hereafter be modified, or as such grade may be lowered, raised, or modified by a regulation issued hereunder. No handler shall ship pears which do not meet the requirements of said grade or of such other minimum grade as may be established pursuant to this section. *Beurre D'Anjou* and *Doyenne du Comice* pears, however, may be shipped in interstate commerce only, and not in foreign commerce, when bearing unhealed broken skins or skin punctures measuring not to exceed three-sixteenths (3/16) of one (1) inch in diameter, provided such pears otherwise meet the requirements of the minimum grade then in effect. However, the requirements governing unhealed broken skins or skin punctures to be met by either *Beurre D'Anjou* pears or *Doyenne du Comice* pears, or both, may be lowered, raised, or modified by a regulation issued hereunder.

(b) *Minimum sizes.* No handler shall ship pears (1) of the *Beurre Bosc* variety of a size smaller than the 195 size; (2) of the *Doyenne du Comice*, *Beurre Easter*, and *Beurre Clairgeau* varieties, respectively, of a size smaller than the 180 size; (3) of the *Beurre D'Anjou* variety of a size smaller than the 225 size; (4) of the *Winter Nelis* variety of a size smaller than the 210 size if exported off the continent of North America and the 195 size if shipped to destinations on the continent of North America.

(c) *Recommendation for modification of minimum grade or size.* The Control Committee, at any time, by affirmative vote of not fewer than ten (10) of its members, may recommend to the Secretary that the aforesaid minimum grade or the aforesaid minimum sizes, or both, be lowered, raised, or modified as to any one or more of the varieties of pears covered hereby, or may recommend that the requirements relative to unhealed broken skins or skin punctures

to be met by either Beurre D'Anjou pears or Doyenne du Comice pears, or both, be lowered, raised, or modified: *Provided, however,* That no such recommendation applicable to pears produced in any one year shall be made by the Control Committee subsequent to July 15 of that year. At the time of submitting such recommendation the Control Committee shall furnish to the Secretary all information and data upon which it acted in making such recommendation, together with such other pertinent information and data as the Secretary may request. The Control Committee shall give immediate notice to handlers and growers of any such recommendation, in such manner as the Control Committee shall find to be adequate.

(d) *Modification of minimum grade or size.* In the event of any such recommendation by the Control Committee, and upon the basis thereof and the information and data submitted therewith and any other data, the Secretary may issue a regulation lowering, raising, or modifying the aforesaid minimum grade or minimum sizes, or both, as to any one or more of said varieties of pears, or the Secretary may issue a regulation lowering, raising, or modifying the requirements relative to unhealed broken skins or skin punctures to be met by either Beurre D'Anjou pears or Doyenne du Comice pears, or both: *Provided, however,* That said minimum grade shall not in any event be lowered below the requirements of U. S. No. 2 Grade, as such grade is specified in the U. S. Standards for Pears, effective July 1, 1939, or as such standards may hereafter be modified, with the exception of the requirements relative to unhealed broken skins or skin punctures to be met by either Beurre D'Anjou pears or Doyenne du Comice pears, or both, provided such pears otherwise meet the minimum requirements of said U. S. No. 2 Grade. The Secretary shall immediately notify the Control Committee of any change of minimum grade or size under this section, and the Control Committee promptly thereafter shall notify handlers and growers of such change in such manner as the Control Committee shall find to be adequate.

(e) *Exemption certificates.* (1) As soon as practicable after the beginning of each fiscal period the Control Committee shall adopt and announce the procedural rules by which exemption certificates may be issued to growers. The Control Committee shall determine the percentage which the grades and sizes of each variety of pears permitted to be shipped from each district under the regulation bears to the total quantity of each variety of pears which could be shipped from that district in the absence of regulation. An exemption certificate may thereafter be granted to any grower who furnishes proof that he will be prevented, because of the regulation in effect, from shipping a percentage of a

particular variety of his pears equal to the percentage of pears of that particular variety permitted to be shipped from his district as determined by the Control Committee. Such exemption certificate shall permit the grower to ship that quantity of the particular variety of pears of the regulated grades and sizes of such variety as will enable him to ship as large a percentage of such variety of his pears as the average percentage of that particular variety of pears that is permitted to be shipped by all growers in his district.

(2) In the event the Control Committee shall determine and report to the Secretary that, by reason of general crop failure or other extraordinary conditions within a particular district, it is not feasible and would not be equitable to issue exemption certificates to growers within that district on the basis of the average percentage of the pears grown in the district which may be shipped in compliance with the minimum grade and size requirements of this section, the Secretary may prescribe such other basis for the issuance of such certificates to growers within that district as he may find to be feasible, equitable, and proper.

(3) The Secretary shall have power to modify, change, alter, or amend any procedural rules and any exemption granted under this section.

(f) *Inspection and certification.* No handler shall ship any pears not theretofore inspected and the grade and size thereof certified by a duly authorized representative of the Federal-State Inspection Service on the basis of grades as promulgated by the United States Department of Agriculture or as hereafter duly modified, or as such grades may be lowered, raised, or modified by a regulation issued pursuant hereto. Promptly after shipment of any pears, the handler shall submit or cause to be submitted to the Control Committee a copy of the Federal-State Inspection certificate issued on that shipment.*

§ 939.5 *Compliance.* Except as provided in section 939.6 hereof, no handler shall ship any pears contrary to the applicable restrictions and limitations specified in, or effective pursuant to, the provisions hereof.*

§ 939.6. *Pears for byproduct and charitable purposes.* (a) Nothing contained herein shall limit or authorize the limitation of shipment of pears for consumption by charitable institutions or distribution by relief agencies or conversion into byproducts, nor shall any assessment be computed on pears so shipped. The Control Committee may prescribe regulations to prevent pears shipped for either of such purposes from entering commercial fresh-fruit channels of trade contrary to the provisions hereof.

(b) The Control Committee shall prescribe rules and regulations, to become effective upon the approval of the Secretary, whereby shipments of pears in individual gift packages may be exempted from the provisions hereof.*

§ 939.7 *Reports.* Upon the request of the Control Committee, subject to the disapproval of the Secretary, each handler shall furnish to the Control Committee, in such manner and at such times as it prescribes, such information as will enable it to perform its duties hereunder.*

§ 939.8 *Agents.* The Secretary may name, by a designation in writing, any person, including any officer or employee of the Government, or any bureau or division in the Department of Agriculture to act as his agent or representative in connection with any of the provisions hereof.*

§ 939.9 *Effective time and termination.* (a) *Effective time.* The provisions hereof shall become effective at such time as the Secretary may declare above his signature affixed hereto, and shall continue in force until terminated in one of the ways hereinafter specified.

(b) *Termination.* (1) The Secretary may at any time terminate this order.

(2) The Secretary shall terminate or suspend the operation of any or all of the provisions hereof whenever he finds that such operation obstructs or does not tend to effectuate the declared policy of the act.

(3) The Secretary shall terminate the provisions hereof at the end of any fiscal period whenever he finds that such termination is favored by a majority of the growers of pears who, during such fiscal period, have been engaged in the area covered hereby in the production of pears for market: *Provided,* That such majority have produced for market during such period more than fifty percent (50%) of the volume of pears produced for market in the area covered hereby; but such termination shall be effective only if announced on or before June 30 of that fiscal period.

(4) The provisions hereof shall terminate, in any event, whenever the provisions of the act authorizing the same cease to be in effect.

(c) *Proceedings after termination.*

(1) Upon the termination hereof, the members of the Control Committee then functioning shall continue as joint trustees for the purpose of liquidating all funds and property then in the possession or under the control of the Control Committee, including claims for any funds unpaid or property not delivered at the time of such termination.

(2) The joint trustees shall continue in such capacity until discharged by the Secretary; from time to time account for all receipts and disbursements; deliver all funds and property on hand, together with all books and records of the Control Committee and of the joint trustees, to such person as the Secretary shall direct; and, upon the request of the Secretary, execute such assignments or other instruments necessary and appropriate to vest in such person full title to all of the funds or claims vested in the Control Committee or in the joint trustees.

(3) Any funds collected pursuant to section 939.3 hereof and held by such joint trustees or such person over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the joint trustees or such other person in the performance of their duties hereunder, as soon as practicable after the termination hereof, shall be returned to the handlers pro rata in proportion to their contributions thereto.

(4) Any person to whom funds, property, or claims have been delivered by the Control Committee or its members, upon direction of the Secretary, as provided in this section, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are imposed upon the members of said Committee or upon said joint trustees.*

§ 939.10 *Duration of immunities.* The benefits, privileges, and immunities conferred by virtue hereof shall cease upon termination hereof, except with respect to acts done under and during the existence hereof.*

§ 939.11 *Separability.* If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remaining provisions and the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.*

§ 939.12 *Derogation.* Nothing contained herein is or shall be construed to be in derogation of, or in modification of, the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.*

§ 939.13 *Liability of Control Committee members.* No member or alternate for a member of the Control Committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any party hereunder or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate for a member, or employee, except for acts of dishonesty.*

§ 939.14 *Amendments.* Amendments hereto may be proposed from time to time by the Control Committee or by the Secretary.*

§ 939.15 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this order or of any regulation issued pursuant to this order, or the issuance of any amendment to either, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision hereof or any regulation issued hereunder, or (b) release or extinguish any

violation hereof or of any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.*

In witness whereof, the Secretary of Agriculture of the United States, acting pursuant to the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the United States Department of Agriculture in the city of Washington, District of Columbia, on the 22d day of August 1939, and declares this order to be effective on and after 12:01 a. m., e. s. t., August 26, 1939.

[SEAL]

HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-3103; Filed, August 22, 1939;
12:02 p. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3030]

IN THE MATTER OF ZO-RO-LO, INC.

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* Representing, in connection with offer, etc., in commerce, of respondent's "Zo-Ro-Lo" or other similar preparation, that said preparation is a cure or remedy for arthritis, asthma, brain disease, Bright's Disease, diabetes, acidity, epileptic convulsions, gall stones, inward goitre, rheumatism, neuritis, sciatica, or sinus, kidney or prostate gland trouble, or neutralizes toxic poisons, relieves all pain, or has any therapeutic value in the treatment of ailments which are due to intestinal auto-intoxication other than as a laxative or purgative, or is beneficial in starting one on the road to health, or in building up resistance to combat the cause of disease, or has any therapeutic value in the treatment of disease other than as a laxative or purgative, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Zo-Ro-Lo, Inc., Docket 3030, August 12, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of August, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

ORDER TO CEASE AND DESIST

This proceeding having been heard¹ by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Miles J. Furnas, Robert S. Hall and Arthur F. Thomas, examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, (oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Zo-Ro-Lo, Inc., its officers, representatives, agents and employees directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of its medical preparation now designated "Zo-Ro-Lo", or any other medical preparation composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under that name or any other name, in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing that said preparation is a cure or remedy for arthritis, asthma, brain disease, Bright's Disease, diabetes, acidity, epileptic convulsions, gall stones, inward goitre, rheumatism, neuritis, sciatica, or sinus, kidney or prostate gland trouble;

(2) Representing that said preparation neutralizes toxic poisons, relieves all pain, or has any therapeutic value in the treatment of ailments which are due to intestinal auto-intoxication other than as a laxative or purgative;

(3) Representing that said preparation is beneficial in starting one on the road to health, or in building up resistance to combat the cause of disease, or has any therapeutic value in the treatment of disease other than as a laxative or purgative.

It is further ordered, That respondent shall, within sixty (60) days after the service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-3085; Filed, August 21, 1939;
3:48 p. m.]

[Docket No. 3473]

IN THE MATTER OF THE MODE NOVELTY COMPANY, ET AL.

§ 3.66 (e) *Misbranding or mislabeling—Old, secondhand or reconstructed*

¹ 2 F.R. 352.

as new: § 3.69 (b) (9) *Misrepresenting oneself and goods—Goods—Old, second-hand or reconstructed as new.* Representing, in connection with offer, etc., in commerce, of hats and caps, that hats or caps composed in whole or in part of used or secondhand materials are new or are composed of new materials by failure to stamp on the sweat bands thereof, in conspicuous and legible terms which cannot be removed or obliterated without mutilating the sweat bands, a statement that said products are composed of secondhand or used materials, prohibited; subject to provision that if sweat bands are not affixed to such hats or caps then such stamping must appear on the bodies of such hats or caps in conspicuous and legible terms which cannot be removed or obliterated without mutilating said bodies. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, The Mode Novelty Company, et al., Docket 3473, August 14, 1939]

§ 3.69 (b) (9) *Misrepresenting oneself and goods—Goods—Old, second-hand or reconstructed as new.* Representing, in any manner, in connection with offer, etc., in commerce, of hats and caps, that hats or caps made in whole or in part from old, used or secondhand materials are new or are composed of new materials, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, The Mode Novelty Company, et al., Docket 3473, August 14, 1939]

*United States of America—Before
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of August, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF THE MODE NOVELTY COMPANY, A CORPORATION, WOLF ALBOUM, AS PRESIDENT AND TREASURER OF THE MODE NOVELTY COMPANY, AND INDIVIDUALLY, AND SAMUEL WEISMAN, AS VICE PRESIDENT AND SECRETARY OF THE MODE NOVELTY COMPANY, AND INDIVIDUALLY

ORDER TO CEASE AND DESIST

This proceeding having been heard¹ by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents, testimony and other evidence taken before Arthur F. Thomas, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, brief filed by counsel for the Commission (respondents not having filed brief, and oral argument not having been requested), and the

Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That respondent, The Mode Novelty Company, a corporation, its officers, representatives, agents, and employees, and respondents Wolf Alboum and Samuel Weisman, individually and as officers of said corporation, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of hats and caps in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that hats or caps composed in whole or in part of used or second-hand materials are new or are composed of new materials by failure to stamp on the sweat bands thereof, in conspicuous and legible terms which cannot be removed or obliterated without mutilating the sweat bands, a statement that said products are composed of second-hand or used materials, provided that if sweat bands are not affixed to such hats or caps then such stamping must appear on the bodies of such hats or caps in conspicuous and legible terms which cannot be removed or obliterated without mutilating said bodies;

2. Representing in any manner that hats or caps made in whole or in part from old, used or second-hand materials are new or are composed of new materials.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order. By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-3086; Filed, August 21, 1939; 3:48 p. m.]

[Docket No. 3497]

IN THE MATTER OF K & S SALES COMPANY, ET AL.

§ 3.69 (b) (16b) *Misrepresenting oneself and goods—Goods—Terms and conditions.* § 3.69 (c10) *Misrepresenting oneself and goods—Promotional sales plans.* § 3.72 (n1) *Offering deceptive inducements to purchase—Terms and conditions.* Representing, in connection with offer, etc., in commerce, of any sales stimulator plan, including certificates, coupons and cards redeemable in chinaware or other merchandise, that certificates, coupons or cards can be redeemed in chinaware or other merchandise, unless and until all of the terms and conditions of such offer are clearly and unequivocally stated in equal conspicuousness and in immediate connection or conjunction with such offer, and there is no deception as to the services or other ac-

tions to be performed or the prices to be paid in connection with obtaining such chinaware or other merchandise, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, K & S Sales Company, et al., Docket 3497, August 12, 1939]

§ 3.69 (b) (16c) *Misrepresenting oneself and goods—Goods—Undertakings, in general.* § 3.69 (c10) *Misrepresenting oneself and goods—Promotional sales plans.* § 3.72 (p) *Offering deceptive inducements to purchase—Undertakings, in general.* Representing, in connection with offer, etc., in commerce, of any sales stimulator plan, including certificates, coupons and cards redeemable in chinaware or other merchandise, that respondent supplies to her customers or to other persons circulars, pamphlets, or other advertising matter relating to said sales stimulator plan when such is not the fact, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, K & S Sales Company, et al., Docket 3497, August 12, 1939]

§ 3.69 (b) (17) *Misrepresenting oneself and goods—Goods—Value.* § 3.69 (c10) *Misrepresenting oneself and goods—Promotional sales plans.* Misrepresenting, in connection with offer, etc., in commerce, of any sales stimulator plan, including certificates, coupons and cards redeemable in chinaware or other merchandise, that any specified sum is the actual cost to respondent of said chinaware or other merchandise, or is the actual cost of packing, handling and distributing said products, or misrepresenting in any other manner the actual cost to respondent of said products or the actual cost of packing, handling and distributing said products, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, K & S Sales Company, et al., Docket 3497, August 12, 1939]

§ 3.69 (b) (15) *Misrepresenting oneself and goods—Goods—Refunds.* § 3.69 (b) (16b) *Misrepresenting oneself and goods—Goods—Terms and conditions.* § 3.69 (c10) *Misrepresenting oneself and goods—Promotional sales plans.* § 3.72 (k3) *Offering deceptive inducements to purchase—Returns and reimbursements.* § 3.72 (n1) *Offering deceptive inducements to purchase—Terms and conditions.* Representing, in connection with offer, etc., in commerce, of any sales stimulator plan, including certificates, coupons and cards redeemable in chinaware or other merchandise, that payment made by respondent's customers for said sales stimulator plan, or any part thereof, is a temporary deposit which will be refunded, or that any other payments made by said customers in connection with said plan will be refunded, unless and until such are the facts and unless all of the terms and conditions of such offer or offers are clearly and unequivocally stated in equal conspicuousness and

¹ 3 F.R. 2364 DI.

in immediate connection or conjunction with such offer or offers and there is no deception as to the services or other actions to be performed in connection with the obtaining of such refund or refunds, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, K & S Sales Company, et al., Docket 3497, August 12, 1939]

§ 3.69 (b) (15a) *Misrepresenting oneself and goods—Goods—Results:* § 3.69 (c10) *Misrepresenting oneself and goods—Promotional sales plans.* Representing, in connection with offer, etc., in commerce, of any sales stimulator plan, including certificates, coupons and cards redeemable in chinaware or other merchandise, that the general sales of respondent's customers will be increased by reason of their use of respondent's sales stimulator plan, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, K & S Sales Company, et al., Docket 3497, August 12, 1939]

*United States of America—Before
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of August, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF K & S SALES COMPANY,
A CORPORATION, AND MRS. FANNYE COHN,
AN INDIVIDUAL

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and upon testimony with respect to the dissolution of the corporate respondent K & S Sales Company, and upon the answer of the individual respondent Mrs. Fannye Cohn, in which answer said respondent admits all the material allegations of fact set forth in said complaint and states that she waives all intervening procedure and further hearing as to said facts, and the Commission, having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Mrs. Fannye Cohn, her representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as commerce is defined in the Federal Trade Commission Act, of any sales stimulator plan, including certificates, coupons, and cards, redeemable in chinaware or other merchandise, do forthwith cease and desist from:

(1) Representing that certificates, coupons or cards can be redeemed in chinaware or other merchandise, unless and until all of the terms and conditions of such offer are clearly and unequivocally stated in equal conspicuousness and in immediate connection or conjunction with such offer and there is no deception as to the services or other actions to be performed or the prices to be paid in connection with obtaining such chinaware or other merchandise;

(2) Representing that respondent supplies to her customers or to other persons circulars, pamphlets, or other advertising matter relating to said sales stimulator plan when such is not the fact;

(3) Misrepresenting that any specified sum is the actual cost to respondent of said chinaware or other merchandise or is the actual cost of packing, handling and distributing said products, or misrepresenting in any other manner the actual cost to respondent of said products or the actual cost of packing, handling and distributing said products;

(4) Representing that payment made by respondent's customers for said sales stimulator plan, or any part thereof, is a temporary deposit which will be refunded, or that any other payments made by said customers in connection with said plan will be refunded, unless and until such are the facts and unless all of the terms and conditions of such offer or offers are clearly and unequivocally stated in equal conspicuousness and in immediate connection or conjunction with such offer or offers and there is no deception as to the services or other actions to be performed in connection with the obtaining of such refund or refunds;

(5) Representing that the general sales of respondent's customers will be increased by reason of their use of respondent's sales stimulator plan.

It is further ordered, That the respondent shall, within sixty (60) days after service upon her of this order, file with the Commission a report in writing setting forth in detail the manner and form in which she has complied with this order.

It is further ordered, That this case be, and the same hereby is, closed as to the corporate respondent K & S Sales Company, without prejudice to the right of the Commission, should future facts so warrant, to reopen the same and resume prosecution thereof in accordance with the Commission's regular procedure.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-3087; Filed, August 21, 1939;
3:48 p. m.]

[Docket No. 3593]

IN THE MATTER OF DEARBORN SUPPLY
COMPANY

§ 3.6 (n) (2) *Advertising falsely or
misleadingly—Nature—Product:* § 3.6

(t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6

(x) *Advertising falsely or misleadingly—Results:* § 3.6 (y) *Advertising falsely or misleadingly—Safety.* Disseminating, etc., advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase of drug-containing cosmetics designated as "Mercolized Wax", "Parker-Belmont Beauty Cream", "Powdered Saxolite", "Powdered Tarkroot" and "Phelactine", or other similar cosmetic preparations, which advertisements represent, directly or through implication, that said cosmetic preparation "Mercolized Wax" absorbs the surface skin, surface discolorations, blemishes or impurities, or removes coarseness, roughness, blackheads, tan, freckles, sunburn, or large pores from the skin or cleanses, softens, lubricates, nourishes or protects the skin; or aids the skin in renewing itself; or that the use of said preparation is a natural way to make the skin beautiful; or that said preparation is an all-in-one cleansing, softening or beautifying cream or an all-purpose beauty aid; or which advertisements fail to reveal that said preparation contains ammoniated mercury, and that the use of said preparation by some persons produces injurious effects, and that said preparation cannot be used safely by anyone over a large area of the body or on any part of the body where the skin is cut, broken, irritated, or otherwise damaged; prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Dearborn Supply Company, Docket 3593, August 15, 1939]

§ 3.6 (n) (2) *Advertising falsely or misleadingly—Nature—Product:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* Disseminating, etc., advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase of drug-containing cosmetics designated as "Mercolized Wax", "Parker-Belmont Beauty Cream", "Powdered Saxolite", "Powdered Tarkroot" and "Phelactine", or other similar cosmetic preparations, which advertisements represent, directly or through implication, that said preparation "Parker-Belmont Beauty Cream" is a skillful or scientific blend of creams or is efficacious for pore-deep cleansing, clearing, softening, lubricating, or all-around beautifying of the skin, or that said preparation is an oxygen cream or will bleach the skin or make the skin lighter by two or more shades or is a blend of all the creams the skin requires; or that said preparation normalizes either a dry or an oily skin; prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Dearborn Supply Company, Docket 3593, August 15, 1939]

§ 3.6 (n) (2) *Advertising falsely or misleadingly—Nature—Product:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* Disseminating, etc., advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase of drug-containing cosmetics designated as "Mercolized Wax", "Parker-Belmont Beauty Cream", "Powdered Saxolite", "Powdered Tarkroot" and "Phelactine", or other similar cosmetic preparations, which advertisements represent, directly or through implication, that said preparation "Saxolite Astringent" is a skin tonic or smooths out wrinkles or age lines, refines coarse pores, eliminates oiliness or gives the skin a fresh, clean, lively appearance, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Dearborn Supply Company, Docket 3593, August 15, 1939]

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* Disseminating, etc., advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase of drug-containing cosmetics designated as "Mercolized Wax", "Parker-Belmont Beauty Cream", "Powdered Saxolite", "Powdered Tarkroot" and "Phelactine", or other similar cosmetic preparations, which advertisements represent, directly or through implication, that said preparation "Powdered Tarkroot", when used as a beauty mask, will revive or refresh a fatigued or drooping face more quickly or completely than other products designed and intended for similar usage; or that said preparation will smooth out wrinkles or age lines or pull relaxed and sagging contours into proper position or purge the pores of all impurities or arouse the circulation so as to nourish the drooping tissues; or that said preparation beautifies the skin by tightening, purifying, refining or stimulating the skin or will renew the complexion; prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Dearborn Supply Company, Docket 3593, August 15, 1939]

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (ff10) *Advertising falsely or misleadingly—Unique nature or advantages.* Disseminating, etc., advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase of drug-containing cosmetics designated as "Mercolized Wax", "Parker-Belmont Beauty Cream", "Powdered Saxolite", "Powdered Tarkroot" and "Phelactine", or other similar cosmetic preparations, which advertisements represent, directly or through im-

plication, that said preparation "Phelactine" is different from or quicker and simpler to use than other hair removers, or that said preparation removes superfluous hair gently, or that the use thereof causes the skin to be smooth, soft and hair free, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Dearborn Supply Company, Docket 3593, August 15, 1939]

*United States of America—Before
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of August, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, and a stipulation as to the facts entered into between the respondent herein and W. T. Kelley, Chief Counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondent herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Dearborn Supply Company, its officers, representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from disseminating or causing to be disseminated any advertisement by means of the United States mails or in commerce, as commerce is defined in the Federal Trade Commission Act, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of cosmetic preparations containing drugs now designated by the names of "Mercolized Wax", "Parker-Belmont Beauty Cream", "Powdered Saxolite", "Powdered Tarkroot" and "Phelactine", or any other cosmetic preparations composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same names or under any other name or names, or disseminating or causing to be disseminated, any advertisements by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as commerce is defined in the Federal Trade Commission Act, of said cosmetic preparations, which

said advertisements represent, directly or through implication:

(1) That said cosmetic preparation "Mercolized Wax" absorbs the surface skin, surface discolorations, blemishes or impurities, or removes coarseness, roughness, blackheads, tan, freckles, sunburn, or large pores from the skin or cleanses, softens, lubricates, nourishes or protects the skin; or aids the skin in renewing itself; or that the use of said preparation is a natural way to make the skin beautiful; or that said preparation is an all-in-one cleansing, softening or beautifying cream or an all-purpose beauty aid; or which advertisements fail to reveal that said preparation contains ammoniated mercury, and that the use of said preparation by some persons produces injurious effects, and that said preparation cannot be used safely by anyone over a large area of the body or on any part of the body where the skin is cut, broken, irritated, or otherwise damaged;

(2) That said preparation "Parker-Belmont Beauty Cream" is a skillful or scientific blend of creams or is efficacious for pore-deep cleansing, clearing, softening, lubricating, or all-around beautifying of the skin, or that said preparation is an oxygen cream or will bleach the skin or make the skin lighter by two or more shades or is a blend of all the creams the skin requires; or that said preparation normalizes either a dry or an oily skin;

(3) That said preparation "Saxolite Astringent" is a skin tonic or smooths out wrinkles or age lines, refines coarse pores, eliminates oiliness or gives the skin a fresh, clean, lively appearance;

(4) That said preparation "Powdered Tarkroot", when used as a beauty mask, will revive or refresh a fatigued or drooping face more quickly or completely than other products designed and intended for similar usage; or that said preparation will smooth out wrinkles or age lines or pull relaxed and sagging contours into proper position or purge the pores of all impurities or arouse the circulation so as to nourish the drooping tissues; or that said preparation beautifies the skin by tightening, purifying, refining or stimulating the skin or will renew the complexion;

(5) That said preparation "Phelactine" is different from or quicker and simpler to use than other hair removers or that said preparation removes superfluous hair gently or that the use thereof causes the skin to be smooth, soft and hair free.

It is further ordered, That the respondent shall, within sixty (60) days after the service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[Docket No. 3594]

IN THE MATTER OF OHIO NOVELTY COMPANY

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of dresser sets, cigarette cases and lighters, tableware, pen and pencil sets, and various and numerous other articles, as specified, or any other articles of merchandise, others with pull cards or circulars having pull tabs thereon, or any other lottery devices, so as to enable such persons to dispose of or sell any merchandise by the use thereof, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Ohio Novelty Company, Docket 3594, August 14, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Mailing, etc., in connection with offer, etc., in commerce, of dresser sets, cigarette cases and lighters, tableware, pen and pencil sets, and various and numerous other articles, as specified, or any other articles of merchandise, to respondent's agents or distributors, or to members of the public, pull cards or circulars having pull tabs thereon, or any other lottery devices so prepared or printed as to enable said persons to sell or distribute any merchandise by the use thereof, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Ohio Novelty Company, Docket 3594, August 14, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of dresser sets, cigarette cases and lighters, tableware, pen and pencil sets, and various and numerous other articles, as specified, or any other articles of merchandise, any merchandise by the use of pull cards or circulars having pull tabs thereon, or any other lottery device or devices, prohibited. (Sec. 5, 38 Stat. 718, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Ohio Novelty Company, Docket 3594, August 14, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of August, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF SAMUEL RAVID, INDIVIDUALLY, AND TRADING AS OHIO NOVELTY COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard¹ by the Federal Trade Commission upon the

¹ 4 F.R. 2951 DI.

complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Samuel Ravid, individually and trading as Ohio Novelty Company, or trading under any other name or names, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of dresser sets, cigarette cases and lighters, tableware, kitchen ware, pen and pencil sets, dolls, clocks, watches, blankets, bedspreads, tablecloths, wearing apparel, cosmetics, jewelry, razors, razor blades, thermometers, electric lamps, suitcases, cameras, beauty sets, billfolds, tool sets, or any other articles of merchandise in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Supplying to or placing in the hands of others pull cards or circulars having pull tabs thereon, or any other lottery devices, so as to enable such persons to dispose of or sell any merchandise by the use thereof;

(2) Mailing, shipping or transporting to his agents or distributors, or to members of the public, pull cards or circulars having pull tabs thereon, or any other lottery devices so prepared or printed as to enable said persons to sell or distribute any merchandise by the use thereof;

(3) Selling or otherwise disposing of any merchandise by the use of pull cards or circulars having pull tabs thereon, or any other lottery device or devices.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-3089; Filed, August 21, 1939; 3:49 p. m.]

[Docket No. 3832]

IN THE MATTER OF McDOWELL, PYLE & CO., INC.

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce of peanuts or any other merchandise, peanuts or other merchandise so packed and assembled that sales of said peanuts or other merchandise to the general public are to be made, or may be made, by

means of a lottery, gaming device or gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, McDowell, Pyle & Co., Inc., Docket 3832, August 14, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of peanuts or any other merchandise, dealers with punchboards, push or pull cards or other lottery devices, either with assortments of said peanuts or other merchandise or separately, which said punchboards, push or pull cards or other lottery devices are to be used, or may be used, in selling or distributing said peanuts or other merchandise to the general public, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, McDowell, Pyle & Co., Inc., Docket 3832, August 14, 1939]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of peanuts or any other merchandise, said peanuts or any other merchandise by the use of punch boards, push or pull cards or any other lottery device or devices, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, McDowell, Pyle & Co., Inc., Docket 3832, August 14, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of August, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that it waives all intervening procedure and further hearing as to said facts and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered. That the respondent, McDowell, Pyle & Co., Inc., its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of peanuts or any other merchandise in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Selling or distributing peanuts or any other merchandise so packed and assembled that sales of said peanuts or

other merchandise to the general public are to be made or may be made by means of a lottery, gaming device or gift enterprise;

2. Supplying to or placing in the hands of dealers punch boards, push or pull cards or other lottery devices, either with assortments of said peanuts or other merchandise or separately, which said punch boards, push or pull cards or other lottery devices are to be used or may be used in selling or distributing said peanuts or other merchandise to the general public;

3. Selling or otherwise disposing of said peanuts or any other merchandise by the use of punch boards, push or pull cards or any other lottery device or devices.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-3090; Filed, August 21, 1939;
3:49 p. m.]

[Docket No. 3850]

IN THE MATTER OF FAIRFIELD ENGINEERING COMPANY

§ 3.6 (n) (2) *Advertising falsely or misleadingly—Nature—Product*: § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product*. Representing, in connection with offer, etc., in commerce, of respondent's "Fairfield Coal Distributors" and "Fairfield Non-Segregating Coal Distributors", or other substantially similar coal distributors, through the use of the term "non-segregating", or any other term of similar import or meaning, or in any other manner, that such coal distributors are non-segregating coal distributors or are distributors which cause a uniform layer of fine and coarse coal to be delivered across the entire surface of the fire boxes of the boilers, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Fairfield Engineering Company, Docket 3850, August 14, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 14th day of August, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Fairfield Engineering Company, a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of coal distributors now designated as "Fairfield Coal Distributors" and "Fairfield Non-Segregating Coal Distributors" or any other coal distributors of substantially similar design, in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, through the use of the term "non-segregating," or any other term of similar import or meaning, or in any other manner, that such coal distributors are non-segregating coal distributors or are distributors which cause a uniform layer of fine and coarse coal to be delivered across the entire surface of the fire boxes of the boilers.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-3091; Filed, August 21, 1939;
3:50 p. m.]

TITLE 29—LABOR CHILDREN'S BUREAU

[Regulation No. 13]

CHILD LABOR

PART 402—ACCEPTANCE OF STATE CERTIFICATES

AUGUST 21, 1939.

§ 402.10 *Designation of States*. Pursuant to the provisions of section 401.5¹ I do hereby designate the following State as a State in which State age, employment, or working certificates or per-

¹ Section 5, Child Labor Regulation No. 1, "Certificates of Age," issued October 14, 1938, pursuant to the authority conferred by sections 3 (l) and 11 (b) of the Fair Labor Standards Act of 1938, published in 3 F.R. 2487 DI, October 15, 1938; republished in 4 F.R. 1361 DI, March 29, 1939.

mits shall have the same force and effect as Federal certificates of age under the Fair Labor Standards Act of 1938: Iowa.

This designation shall be effective from and after the date hereof until November 1, 1939.

[SEAL] KATHARINE F. LENROOT,
Chief.

[F. R. Doc. 39-3106; Filed, August 22, 1939;
12:15 p. m.]

WAGE AND HOUR DIVISION

PART 524—REGULATIONS APPLICABLE TO EMPLOYMENT OF HANDICAPPED PERSONS PURSUANT TO SECTION 14 OF THE FAIR LABOR STANDARDS ACT

The following amendment to Regulations—Part 524—(Regulations applicable to employment of handicapped persons pursuant to Section 14 of the Fair Labor Standards Act) is hereby issued. This amendment amends Section 524.91¹ as amended, by extending the duration of said Section 524.91 from September 1, 1939 to March 1, 1940. Said amendment shall become effective upon my signing the original and upon publication thereof in the FEDERAL REGISTER, and shall be in force and effect until repealed by regulations hereafter made and published.

Signed at Washington, D. C., this 21st day of August 1939.

ELMER F. ANDREWS,
Administrator.

§ 524.91 *Temporary certificate of exemption for handicapped individuals employed by certain charitable non-profit institutions and organizations during period before normal procedure is in full operation*. Notwithstanding any provision in Section 524.90² of Part 524 (providing a temporary certificate of exemption during period before normal procedure is in full operation), from October 24, 1938, to March 1, 1940, or such earlier date as the Administrator may after notice determine, this regulation shall be deemed to be a certificate authorizing charitable organizations and institutions conducted not for profit but for the purpose of carrying out a recognized program of rehabilitation for handicapped individuals and of providing such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature, to employ (or suffer or permit to work) handicapped individuals for such purposes at wage rates less than the minimum rate applicable under Section 6 of the Fair Labor Standards Act, subject to the following conditions:

(a) the earning capacity of the employee for the particular position held by him or for the work which he is suf-

¹ 4 F.R. 2187 DI.

² 4 F.R. 485 DI.

ferred or permitted to do must be, or must be honestly believed by the employer to be, substantially impaired by age or physical or mental deficiency or injury;

(b) in no event shall the minimum wage paid any such handicapped individual during this period of temporary exemption be less than that proportion of the minimum wage applicable under Section 6 which the handicapped individual's earning capacity bears to the earning capacity of a non-handicapped worker.*

[F. R. Doc. 39-3099; Filed, August 22, 1939; 10:21 a. m.]

TITLE 45—PUBLIC WELFARE

FEDERAL WORKS AGENCY—WORK PROJECTS ADMINISTRATION

[General Order No. 1]

SCHEDULE OF MONTHLY EARNINGS

By virtue of and pursuant to the authority vested in me by the provisions of subsection (a) of Section 15 of the Emergency Relief Appropriation Act of 1939, approved June 30, 1939, (Public Resolution No. 24, 76th Congress) I hereby establish the following schedule of monthly earnings.

The schedule of monthly earnings applicable to any county shall be based upon the 1930 population of the largest municipality within the county, in accordance with the following schedule: except that the schedule of monthly earnings applicable to counties in which the 1930 population of the largest municipality was 100,000 or more shall be applicable to the entire area included within the following metropolitan districts as such districts are defined by the fifteenth Census of the United States—1930: Baltimore; Boston; Buffalo-Niagara; Chicago; Cincinnati; Cleveland; Detroit; Kansas City, Kansas-Kansas City, Missouri; Los Angeles; Milwaukee; Minneapolis-St. Paul; New York City-Northeastern New Jersey; Philadelphia; Pittsburgh; Providence, Rhode Island-Fall River-New Bedford, Massachusetts; St. Louis; San Francisco-Oakland; Scranton-Wilkes Barre; Washington, D. C.

Schedule of Monthly Earnings

WAGE REGION I

| Area—Counties in which the 1930 population of the largest municipality was— | Wage class | | | | |
|-----------------------------------------------------------------------------|---------------|---------------|--------------|---------|----------------------------|
| | Unskilled "B" | Unskilled "A" | Intermediate | Skilled | Professional and technical |
| 100,000 and over... | \$52.00 | \$57.20 | \$68.90 | \$89.70 | \$94.90 |
| 25,000 to 100,000... | 48.10 | 52.00 | 62.40 | 81.90 | 84.50 |
| 5,000 to 25,000... | 42.90 | 48.10 | 57.20 | 74.10 | 76.70 |
| Under 5,000... | 39.00 | 42.90 | 52.00 | 67.60 | 68.90 |

*Issued under the authority contained in Section 14, 52 Stat. 1060.

Schedule of Monthly Earnings—Con.

WAGE REGION II

| Area—Counties in which the 1930 population of the largest municipality was— | Wage class | | | | |
|-----------------------------------------------------------------------------|---------------|---------------|--------------|---------|----------------------------|
| | Unskilled "B" | Unskilled "A" | Intermediate | Skilled | Professional and technical |
| 100,000 and over... | \$52.00 | \$57.20 | \$68.90 | \$89.70 | \$94.90 |
| 25,000 to 100,000... | 48.10 | 52.00 | 62.40 | 81.90 | 84.50 |
| 5,000 to 25,000... | 46.80 | 50.70 | 61.10 | 79.30 | 81.90 |
| Under 5,000... | 44.20 | 49.40 | 59.80 | 76.70 | 78.00 |

WAGE REGION III

| Area—Counties in which the 1930 population of the largest municipality was— | Wage class | | | | |
|-----------------------------------------------------------------------------|---------------|---------------|--------------|---------|----------------------------|
| | Unskilled "B" | Unskilled "A" | Intermediate | Skilled | Professional and technical |
| 100,000 and over... | \$46.80 | \$50.70 | \$61.10 | \$79.30 | \$81.90 |
| 25,000 to 100,000... | 42.90 | 48.10 | 57.20 | 74.10 | 75.40 |
| 5,000 to 25,000... | 36.40 | 40.30 | 48.10 | 62.40 | 65.00 |
| Under 5,000... | 31.20 | 35.10 | 42.90 | 54.60 | 55.90 |

Wage Region I includes. Connecticut, Delaware, District of Columbia, Illinois, Indiana, Iowa, Maine, Maryland, Kansas, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, West Virginia, Wisconsin.

Wage Region II includes. Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming.

Wage Region III includes. Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia.

Certified trainees assigned to household workers training projects. The monthly earnings applicable to this class of work shall be fifty per cent (50%) of the schedule of monthly earnings applicable to the Unskilled "B" wage class in the locality in which the Household Workers Training Project is being operated.

Territories and Island Possessions

| | Unskilled "B" | Unskilled "A" | Intermediate | Skilled | Professional and technical |
|----------------------------|---------------|---------------|--------------|---------|----------------------------|
| Alaska..... | \$52.00 | \$57.20 | \$68.90 | \$89.70 | \$94.90 |
| Puerto Rico..... | 19.50 | 22.10 | 27.30 | 35.10 | 36.40 |
| Virgin Islands..... | 19.50 | 22.10 | 27.30 | 35.10 | 36.40 |
| Hawaii: | | | | | |
| All islands except Oahu... | 36.40 | 40.30 | 48.10 | 62.40 | 65.00 |
| Island of Oahu..... | 42.90 | 48.10 | 57.20 | 74.10 | 75.40 |

Except as otherwise provided by regulations of the Work Projects Administration the earnings of all persons engaged upon projects financed in whole or in part from funds appropriated by the Emergency Relief Appropriation Act of 1939 to the Work Projects Administration or prior Emergency Relief Appropriation Acts shall be on a monthly basis in accordance with the schedule of monthly earnings established by this General Order.

The earnings of persons engaged upon such projects shall differ according to

the various classes of work, namely, Unskilled "B", Unskilled "A", Intermediate, Skilled, and Professional and Technical, as prescribed in the schedule of monthly earnings.

The schedule of monthly earnings prescribed herein shall become effective September 1, 1939. Payment for work performed prior to September 1, 1939, shall be paid in accordance with the schedule of monthly earnings in effect prior to that date. Payment for work performed subsequent to August 31, 1939, shall be in accordance with the schedule of monthly earnings set forth herein.

This General Order shall supersede and rescind Administrative Order No. 67 of the Works Progress Administration dated April 11, 1939,¹ and shall rescind on the effective date of this General Order all adjustments to the schedule of monthly earnings which have been authorized on the basis of contiguity, redefinition of regions, adjustments within the range of ten per cent, and specific adjustments for individual projects.

[SEAL]

F. C. HARRINGTON,

Commissioner of Works Projects.

Approved, August 15, 1939.

Effective date, September 1, 1939.

[F. R. Doc. 39-3105; Filed, August 22, 1939; 12:12 p. m.]

TITLE 46—SHIPPING

UNITED STATES MARITIME COMMISSION

[General Order 15—Supplement 12a]

MINIMUM MANNING SCALES FOR THE S. S. "DEL RIO," S. S. "DELALBA," S. S. "DELMAR," S. S. "DELPLATA" AND S. S. "CLEARWATER," SUBSIDIZED VESSELS OF THE MISSISSIPPI SHIPPING COMPANY, INC.

At a regular session of the United States Maritime Commission held at its offices in Washington, D. C., on the 18th day of August, 1939.

The Commission having adopted, pursuant to Section 301 (a) of the Merchant Marine Act, 1936, General Order No. 15¹ providing for minimum wage scales, minimum manning scales, and reasonable working conditions for all subsidized vessels, and now desiring to complete the minimum manning scales for the S. S. Delrio, S. S. Delalba, S. S. Delmar, S. S. Delplata and S. S. Clearwater, subsidized vessels of the Mississippi Shipping Company, Inc. (referred to herein as Operator); and

The Commission finding that the minimum scales hereinafter adopted for the above named subsidized vessels of the Operator are reasonable, proper and lawful, such finding being based upon investigations referred to in General Order No. 15 and investigations of the Commission made thereafter; it is, therefore

¹ 4 F.R. 1644 DL.

² 2 F.R. 2257.

Ordered, That the minimum manning scales attached hereto for the S. S. *Delrio*, S. S. *Delalba*, S. S. *Delmar*, S. S. *Delplata* and S. S. *Clearwater*, subsidized vessels of the Operator, be and the same hereby are adopted: *Provided*, That under extraordinary circumstances such as casualty or desertion, where it is impossible to procure sufficient officers or unlicensed seamen of any required grade or rating to permit the sailing of any of said vessels without undue delay, the said scales shall be inoperative to the extent required by such emergency, and the Operator shall forthwith report to the Commission any departure from said scales, stating in such report the extent of the departure and showing to the satisfaction of the Commission that sufficient reasons for such departure existed; and it is further

Ordered, That the minimum manning scales hereby adopted shall not relieve said Operator from complying with the manning requirements of the Bureau of Marine Inspection and Navigation and shall be without prejudice to the carrying of seamen in addition to those required hereby; and it is further

Ordered, That the minimum manning scales hereby adopted shall become effective for each of said vessels upon the first signing after September 15, 1939 of shipping articles for a subsidized voyage of said vessel, unless otherwise specified in the scales, and that the Operator be immediately served by registered mail with a copy of this Order and of the minimum manning scales hereby adopted.

By order of the United States Maritime Commission.

[SEAL] R. L. McDONALD,
Assistant Secretary.

Minimum Manning Scale To Be Observed on the Vessels S. S. "Delrio," S. S. "Delalba," S. S. "Delmar," S. S. "Delplata," and S. S. "Clearwater" of the Mississippi Shipping Company, Inc.

RATING

| Deck department: | Minimum |
|-------------------------------|----------------|
| Master | 1 |
| Chief Mate | 1 |
| Second Mate | 1 |
| Third Mate | 1 |
| Cadet Officer or Cadet | 1 ¹ |
| Radio Operator | 1 ¹ |
| Boatswain | 1 |
| A. B. Seamen | 6 |
| Ordinary Seamen | 3 |
| Engine department: | |
| Chief Engineer | 1 |
| First Assistant Engineer | 1 |
| Second Assistant Engineer | 1 |
| Third Assistant Engineer | 1 |
| Engine Cadet Officer or Cadet | 1 ¹ |

¹ It shall not constitute a violation of this Manning Scale to detail any Cadet Officer or Cadet required to be carried hereby, to shore training after notice to, and approval by, the Director of the Division of Maritime Personnel of this Commission, and in such case entry shall be made in the official logbook to this effect and no replacements of such Cadet Officers or Cadets shall be required. Such cadets also may be removed from vessel's complement at any time upon notice to the operator by the Director of the Division of Maritime Personnel, and such action shall not constitute a violation of this Manning Scale.

² With radio auto alarm.

| Engine department—Con. | Minimum |
|------------------------|----------------|
| Deck Engineer | 1 ¹ |
| Oilers | 3 |
| Firemen | 3 |
| Wipers | 2 ² |
| Steward's department: | |
| Steward | 1 |
| Chief Cook | 1 |
| Second Cook & Baker | 1 |
| Messman | 1 |
| Messboys | 2 |

¹ The Deck Engineer and Wipers required by this Manning Scale are ratings covered by, and in no sense additions to, the respective ratings provided for by the Manning Scales set forth in General Order No. 15, issued October 21, 1937.

GENERAL NOTE: Requirements of this Manning Scale will be deemed satisfied in the event that an employee is carried whose rating in the same department is superior to the rating prescribed.

[F. R. Doc. 39-3101; Filed, August 22, 1939; 11:29 a. m.]

[General order 15, Supplement 12b]

MINIMUM MANNING SCALES FOR THE S. S. "DELSUD," S. S. "DELNORTE," S. S. "DELMUNDO" AND S. S. "DELVALLE," SUBSIDIZED VESSELS OF THE MISSISSIPPI SHIPPING COMPANY, INC.

At a regular session of the United States Maritime Commission held at its offices in Washington, D. C., on the 18th day of August 1939.

The Commission having adopted, pursuant to Section 301 (a) of the Merchant Marine Act, 1936, General Order No. 15¹ providing for minimum wage scales, minimum manning scales, and reasonable working conditions for all subsidized vessels, and now desiring to complete the minimum manning scales for the S. S. *Delsud*, S. S. *Delnorte*, S. S. *Delmundo*, and S. S. *Delvalle*, subsidized vessels of the Mississippi Shipping Company, Inc. (referred to herein as Operator); and

The Commission finding that the minimum scales hereinafter adopted for the above named subsidized vessels of the Operator are reasonable, proper and lawful, such finding being based upon investigations referred to in General Order No. 15 and investigations of the Commission made thereafter; it is, therefore

Ordered, That the minimum manning scales attached hereto for the S. S. *Delsud*, S. S. *Delnorte*, S. S. *Delmundo*, and S. S. *Delvalle*, subsidized vessels of the Operator, be and the same hereby are adopted: *Provided*, That under extraordinary circumstances such as casualty or desertion, where it is impossible to procure sufficient officers or unlicensed seamen of any required grade or rating to permit the sailing of any of said vessels without undue delay, the said scales shall be inoperative to the extent required by such emergency, and the Operator shall forthwith report to the Commission any departure from said scales, stating in such report the extent of the departure and showing to the satisfaction of the Commission that sufficient reasons for such departure existed; and it is further

¹ 2 F. R. 2257.

Ordered, That the minimum manning scales hereby adopted shall not relieve said Operator from complying with the manning requirements of the Bureau of Marine Inspection and Navigation and shall be without prejudice to the carrying of seamen in addition to those required hereby; and it is further

Ordered, That the minimum manning scales hereby adopted shall become effective for each of said vessels upon the first signing after September 15, 1939 of shipping articles for a subsidized voyage of said vessel, unless otherwise specified in the scales, and that the Operator be immediately served by registered mail with a copy of this Order and of the minimum manning scales hereby adopted.

By order of the United States Maritime Commission.

[SEAL] R. L. McDONALD,
Assistant Secretary.

Minimum Manning Scale to be Observed on the Vessels S. S. "Delsud," S. S. "Delnorte," S. S. "Delmundo," and S. S. "Delvalle" of the Mississippi Shipping Company, Inc.

RATING

| Deck department: | Minimum |
|-------------------------------|----------------|
| Master | 1 |
| Chief Mate | 1 |
| Second Mate | 1 |
| Third Mate | 1 |
| Cadet Officer or Cadet | 1 ¹ |
| Radio Operators | 3 |
| Boatswain | 1 |
| Fire Watchman | 1 |
| A. B. Seamen | 6 |
| Ordinary Seamen | 3 |
| Engine department: | |
| Chief Engineer | 1 |
| First Assistant Engineer | 1 |
| Second Assistant Engineer | 1 |
| Third Assistant Engineer | 1 |
| Engine Cadet Officer or Cadet | 1 ¹ |
| Deck Engineer | 1 ¹ |
| Oilers | 3 |
| Firemen | 3 |
| Wipers | 2 ² |
| Steward's department: | |
| Chief Steward & Purser | 1 |
| Chief Cook | 1 |
| Second Cook | 1 |
| Utilitymen | 2 |
| Messmen | 2 |

¹ It shall not constitute a violation of this Manning Scale to detail any Cadet Officer or Cadet required to be carried hereby, to shore training after notice to, and approval by, the Director of the Division of Maritime Personnel of this Commission, and in such case entry shall be made in the official logbook to this effect and no replacements of such Cadet Officers or Cadets shall be required. Such Cadets also may be removed from vessel's complement at any time upon notice to the operator by the Director of the Division of Maritime Personnel, and such action shall not constitute a violation of this Manning Scale.

² The Deck Engineer and Wipers required by this Manning Scale are ratings covered by, and in no sense additions to, the respective ratings provided for by the Manning Scales set forth in General Order No. 15, issued October 21, 1937.

GENERAL NOTE: Requirements of this Manning Scale will be deemed satisfied in the event that an employee is carried whose rating in the same department is superior to the rating prescribed.

[F. R. Doc. 39-3102; Filed, August 22, 1939; 11:29 a. m.]

TITLE 47—TELECOMMUNICATIONS FEDERAL COMMUNICATIONS COMMISSION

PART 1—RULES OF PRACTICE AND PROCEDURE

Correction

Attention is directed to the following error in Part 1 of Rules of Practice and Procedure which appeared in the FEDERAL REGISTER of Wednesday, July 19, 1939:

Page 3348—Section 1.273: Line 4, the word "and" immediately following "subscribed" should read "or".

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 39-3094; Filed, August 22, 1939;
9:44 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Division of Marketing and Marketing Agreements.

PROCLAMATION WITH RESPECT TO BASE PERIOD TO BE USED FOR PURPOSE OF MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF THE BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF FRESH PEARS GROWN IN THE STATES OF OREGON, WASHINGTON, AND CALIFORNIA

By virtue of the authority vested in the Secretary of Agriculture by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937, it is hereby found and proclaimed that, with respect to the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington, and California, the purchasing power of such fall and winter pears during the base period, August 1909-July 1914, cannot be satisfactorily determined from available statistics of the Department of Agriculture for the purpose of the execution of a marketing agreement and the issuance of an order¹ regulating the handling of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington, and California, but the purchasing power of such fall and winter pears grown in the States of Oregon, Washington, and California can be satisfactorily determined from available statistics of the Department of Agriculture for the post-war period, August 1920-July 1929. The period August 1920-July 1929 is, therefore, hereby declared and proclaimed to be

¹ See page 3694.

the base period to be used in determining the purchasing power of said varieties of fresh pears grown in the States of Oregon, Washington, and California for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of such fruit.

In witness whereof, the Secretary of Agriculture has executed this proclamation in duplicate and has hereunto set his hand and caused the seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 22d day of August 1939.

[SEAL]

HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-3104; Filed, August 22, 1939;
12:02 p. m.]

FEDERAL COMMUNICATIONS COM- MISSION.

[Docket No. 5715]

IN RE APPLICATION OF STUART BROADCAST- ING CORP. (WROL)

Dated, April 11, 1939; for construction permit; class of service, broadcast; class of station, broadcast; location, Knoxville, Tenn.; operating assignment specified: Frequency, 620 kc directional antenna night; power, 500 w night, 1 kw day; hours of operation, unlimited

[File No. B3-P-2435]

NOTICE OF HEARING

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether the interests of any other stations may be adversely affected by reason of interference, particularly Stations WTMJ, WFLA, WSUN and KWFT;

2. Because of the pendency of other applications with which conflict may be had by reason of interference, i. e., Sentinel Broadcasting Corporation (B1-P-1934); WHJB (B2-P-2091); WTMJ (4-ML-B-1371); WFLA (B3-ML-672) and KWFP (B3-P-2461);

3. To determine whether or not the operation of Station WROL as proposed will be in accord with the Commission's plan of allocation and standards of good engineering practice.

4. To determine whether the site at which the applicant proposes to construct and operate the station will be satisfactory.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such is-

ssues by filing a written appearance in accordance with the provisions of Section 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of Section 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Stuart Broadcasting Corp., Radio Station WROL, 524 South Gay St., Knoxville, Tenn.

Dated at Washington, D. C. August 19, 1939.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 39-3095; Filed, August 22, 1939;
9:44 a. m.]

[Docket No. 5716]

IN RE APPLICATION OF ALAMO BROADCAST- ING CO., INC. (KABC)

Dated May 31, 1939; for construction permit; Class of service, broadcast; Class of station, broadcast; Location, San Antonio, Tex.; operating assignment specified: Frequency, 630 kc.; power, 1 kw. night, 5 kw. day; hours of operation, unlimited

[File No. B3-P-2409]

NOTICE OF HEARING

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether the interests of any other station may be adversely affected by reason of interference, particularly Stations KVOD, KFRU, and WGBF.

2. Because of the pendency of other applications with which conflict may be had by reason of interference, i. e., KFRU (B4-P-1739); KWK (B4-P-2364); KSD (B4-P-2379); and KXOK (B4-P-2323).

3. To determine whether or not the operation of Station KABC as proposed will be in accord with the Commission's plan of allocation and standards of good engineering practice.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of Section 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of Section 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Alamo Broadcasting Co., Inc., Radio Station KABC, Milam Bldg., 115 West Travis St., San Antonio, Tex.

Dated at Washington, D. C., August 19, 1939.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 39-3096; Filed, August 22, 1939; 9:44 a. m.]

[Docket No. 5717]

IN RE APPLICATION OF PORTLAND BROADCASTING SYSTEM, INC. (WGAN)

Dated, June 16, 1939; for construction permit; class of service, Broadcast; class of station, Broadcast; location, Portland, Maine; operating assignment specified: Frequency, 1390 kc directional antenna night; Power, 1 kw night, 1 kw day; hours of operation, Unlimited

[File No. B1-P-2431]

NOTICE OF HEARING

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether the interests of any other stations may be adversely affected by reason of interference, particularly Station WHK.
2. Because of the pendency of other applications with which conflict may be had by reason of interference, i. e., Pawtucket Broadcasting Company (B1-P-1877) and WQDM (B1-ML-608).
3. To determine whether or not the operation of Station WGAN as proposed will be in accord with the Commission's plan of allocation and standards of good engineering practice.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of Section 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of Section 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Portland Broadcasting System, Inc., Radio Station WGAN, 645-A Congress St., Portland, Maine.

Dated at Washington, D. C., August 19, 1939.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 39-3097; Filed, August 22, 1939; 9:44 a. m.]

[Docket No. 5718]

IN RE APPLICATION OF ROY JAMES MURRAY (NEW)

Dated, February 6, 1939, for construction permit; class of service, experimental; class of station, general experimental; location, Mobile; operating assignment specified: Frequency, 31540 kc; Power, 15 watts, Emission A2, A3; Hours of operation, Unlimited; Points of Communication, "car to temporary station receivers"

[File No. T-4-PE-3720]

NOTICE OF HEARING

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine the legal, technical, financial and other qualifications of the applicant to own and operate a radio station such as the one proposed;
2. To determine the nature and extent of the experiments to be conducted;
3. To determine the objectives of the applicant's proposed experimental operation;
4. To determine the need for the experimentation proposed;
5. To determine whether the experimentation proposed is such as is contemplated by Section 51.01 of the Commission's Rules and Regulations;
6. To determine whether or not interference would result to the service of any existing radio station or stations from the proposed operation;
7. To determine whether the granting of this application will serve public interest, convenience and necessity.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of Section 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of Section 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Roy James Murray, 2125 Vine Street, LaCrosse, Wisconsin.

Dated at Washington, D. C., August 19, 1939.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 39-3098; Filed, August 22, 1939; 9:45 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of August, A. D. 1939.

[File No. 32-169]

IN THE MATTER OF THE MARION-RESERVE POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application or a declaration pursuant to section 6 (b) or 7 (whichever is applicable) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party:

It is ordered, That a hearing on such matter be held on August 31, 1939, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 28, 1939.

The matter concerned herewith is in regard to the proposed issuance and sale to the public by the applicant of its First Mortgage Bonds, 3½% Series, due September 1, 1959, in the principal amount of \$7,750,000 and its unsecured Eight-Year 2½% Promissory Notes in the principal amount of \$1,250,000.

The applicant states that the net proceeds to be received by it from the sale of said \$7,750,000 principal amount of First Mortgage Bonds and said \$1,250,000 of unsecured Serial Notes are to be used for the payment and discharge of the now outstanding First Mortgage Bonds issued by or assumed by the applicant and Serial Notes in the total principal amount of \$8,650,000 and for the reimbursement of its treasury, in part, for expenditures heretofore made for extensions and improvements to its facilities.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3100; Filed, August 22, 1939; 11:10 a. m.]